

**MICHAEL G. VOGT, Individually and
On Behalf of All Others Similarly Situated,**

Plaintiff,

V.

**STATE FARM LIFE INSURANCE
COMPANY,**

Defendant.

Case No. 16-4170-CV-C-NKL

PLAINTIFFS' MOTION TO ESTABLISH QUALIFIED SETTLEMENT FUND
AND APPOINT ADMINISTRATOR¹

Plaintiffs, by and through undersigned Class Counsel, hereby move the Court for an Order to: (1) establish the State Farm Missouri COI Qualified Settlement Fund (“QSF”) as a qualified settlement fund pursuant to Internal Revenue Code § 468B and Treasury Regulations § 1.468B-1 *et seq.* for the purpose of collecting from Defendant the common fund secured for the Class that includes the \$34,322,414.84 judgment, post judgment interest provided by statute, and prejudgment interest in an amount to be determined by the Court upon resolution of Plaintiffs’ Motion for Application of Prejudgment Interest (Doc. 423), and to distribute to each Class Member their share of the common fund, less a pro-rata reduction for any attorneys’ fees and non-taxable expenses awarded to Class Counsel and any service award to Mr. Vogt, pursuant to the plan of allocation adopted by the Court (Doc. 404 at 5-6); and (2) appoint Angeion Group as administrator of the QSF. In support of their Motion, Plaintiffs state as follows:

¹ Despite repeated attempts to reach a stipulation regarding the establishment of a qualified settlement fund, State Farm has not confirmed its position as of the time of this filing.

1. Mr. Vogt and Class Counsel secured a common fund for the Class that includes the \$34,322,414.84 judgment, post-judgment interest provided by statute, and prejudgment interest, the latter of which is subject of a separate motion before the Court.

2. Pursuant to the plan of allocation adopted by the Court, each Class Member will receive their share of the damages as awarded by the jury, plus pre and post judgment interest, less a pro rata reduction for any attorneys' fees and non-taxable expenses awarded to Class Counsel and for any service award to Mr. Vogt. Doc. 404 at 5-6 (approving plan of allocation).

3. With this motion, Plaintiffs request that the Court enter its Order establishing the QSF as a qualified settlement fund under Internal Revenue Code § 468B and Treasury Regulations § 1.468B-1 *et seq.*

4. The QSF shall be a qualified settlement fund under Internal Revenue Code § 468B and Treasury Regulations 1.468B-1 *et seq.* because: (1) the QSF is being established subject to approval of this Court and is subject to the continuing jurisdiction of this Court; (2) the QSF is being established to satisfy the Class Members' claims arising out of a tort and/or breach of contract; and (3) the QSF will be an account whose assets will be segregated from the general assets of Defendant State Farm Life Insurance Company.

5. Class Counsel further moves the Court to appoint Angeion Group ("Angeion") as the administrator ("Administrator") of the QSF to administer the QSF in accordance with the Plan of Allocation adopted by the Court (Doc. 404 at 5-6) and the terms of any contemplated or necessary Qualified Settlement Fund Agreement to be executed among Angeion and Class Counsel. The Administrator shall also serve as the administrator within the meaning of Treasury Regulations § 1.468B-2(k).

6. In addition to being experienced in the application of complex claim calculations and tax withholding and reporting (Ex. A, Devery Dec. at ¶ 4), Angeion is experienced in serving as a court-appointed qualified settlement fund administrator managing all aspects of account setup, management, disbursement, tax filing, and fund closing procedures. *Id.* at ¶ 5. And, given its prior involvement and experience communicating with the Class in this case, the Court previously appointed Angeion to oversee the distribution of net funds to the Class. Doc. 404 at 6.

7. Class Counsel requests that Angeion serve as the Administrator without bond.

8. The funds to be held in the QSF are the sole property of the QSF. Until such time as funds are distributed from the QSF, Class Members shall not possess any rights to demand or receive any portion of the funds held in the QSF and shall not possess any right to mortgage, pledge, or encumber the same in any manner. To facilitate any necessary tax reporting, and upon request by the Administrator, State Farm shall promptly provide the social security numbers of Class Members as needed. Class Counsel will not be privy to any transfer of social security numbers. To the extent possible, this Motion shall be construed so as to prevent Class Members from being in constructive receipt, as determined under federal income tax principles, of any amounts held by the QSF.

9. Upon final distribution of all funds received into the QSF and allocated to Class Members, the Administrator shall take appropriate steps to wind down the QSF and thereafter be discharged from any further responsibility with respect to the QSF. The Administrator may, but shall not be obligated to, seek a final order of discharge from this Court.

10. The cost to establish and administer the QSF including the distribution of the judgment will be paid by the common fund or as otherwise ordered by the court.

WHEREFORE, Plaintiffs respectfully pray that the Court enter its Order to: (1) establish the State Farm Missouri COI Qualified Settlement Fund (“QSF”) as a qualified settlement fund pursuant to Internal Revenue Code § 468B and Treasury Regulations § 1.468B-1 *et seq.*; and (2) appoint Angeion Group as administrator of the QSF, and for such other and further relief the Court deems just and proper.

Dated: September 28, 2020

Respectfully submitted,

MILLER SCHIRGER, LLC

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CERTIFICATE OF SERVICE

I hereby certify that on September 28, 2020, I filed the foregoing document via the Court's ECF system, which will cause a true and correct copy of the same to be served electronically on all ECF-registered counsel of record.

/s/ John J. Schirger
Attorney for Plaintiffs